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TAGS: PREL KTIA MOPS PBTS PHSA CH

SUBJECT: PRC TOLD TO REFRAIN FROM INTERFERING WITH U.S.
NAVAL ACTIVITY IN CHINA'S EEZ

REF: A. STATE 43018

1B. 07 BEIJING 4898

Classified By: Charge d'Affaires, a.i., Daniel Piccata.
Reasons 1.4 (b/d).

11. (S) Summary: The continued harassment of U.S. vessels conducting lawful activities in China's Exclusive Economic Zone (EEZ) is "provocative and potentially dangerous," the Charge told MFA Treaty and Law Department Director General Duan Jielong on April 28. Duan called the surveys "very close" to China's territorial seas and contiguous areas, and claimed the UN Convention on the Law of the Seas (LOS) does not list military surveys as a peaceful use of the high seas. Duan, calling for a "serious discussion" of the legal issues, said the surveys are "not consistent with LOS or western law," and should be stopped. The Charge emphasized the need to explore these differences through dialogue rather than provocative and dangerous actions such as low passing military aircraft or shining bright lights. End Summary.

12. (C) The Charge met with MFA Treaty and Law Department Director General Duan Jielong April 28 to protest "provocative and potentially dangerous" actions taken by Chinese maritime and air assets against the USNS Victorious, a naval auxiliary ship engaged in lawful military activities in China's Exclusive Economic Zone (EEZ). Recalling his meeting with Duan on a similar issue in July 2007 (ref B), Charge pressed the PRC to refrain from such dangerous actions that could lead to miscalculation.

13. (C) Duan, citing what he called "repeated, sustained, and continuous" U.S. military surveys in the PRC's EEZ, emphasized China's request for an explanation of what activities the United States is engaging in during these surveys. Duan called the surveys "very close to China's territorial seas and contiguous areas," and claimed Article 82 of the United Nations Convention on the Law of the Seas (LOS) does not list military surveys as a peaceful use of the high seas. Duan said U.S. military activities in China's EEZ are "not consistent with the LOS or western law," and should be stopped. U.S. military surveys are "provocative," he said, and China must "do what we do" in order to ensure compliance with Chinese law. If the United States is sincere in its desire to safeguard its military cooperative relationship with China, it should "rethink the legitimate position of the Chinese side," he said. The legal issue is "black and white," and China welcomes a "serious discussion" about whose interpretation is closer to the law.

14. (S) The Charge, noting that the United States and China have different interpretations on some of the details of the

extent of a costal state's rights and restrictions under international law and the LOS, emphasized the need to explore these differences through dialogue and discussion rather than by provocative and dangerous actions such as low passing military aircraft or shining bright lights.

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